

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

DEUTSCHE BANK TRUST
COMPANY AMERICAS, *et al.*

*

*

Plaintiffs

*

v.

*

Civil Action No. 8:11-CV-1510-AW

JANICE M. MCGURN, *et al.*

*

*

Defendants

*

MARYLAND STATE RETIREMENT AND PENSION SYSTEM’S
MOTION TO DISMISS

The Maryland State Retirement and Pension System (“MSRPS”), a defendant, by its attorneys, pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6), hereby moves to dismiss plaintiffs’ Second Amended Complaint (“Complaint”) on the grounds that this Court lacks jurisdiction over those claims and the Complaint fails to state a claim upon which relief can be granted.

Plaintiffs cannot maintain a claim against MSRPS because their state law claims are barred by the Eleventh Amendment and the doctrine of state sovereign immunity. Plaintiffs therefore lack standing and this Court lacks subject matter jurisdiction over the claims. This Court retains the discretion to decide this Motion while the Multidistrict Litigation (“MDL”) application is pending and even if the MDL Panel enters a conditional transfer order.

The grounds for this Motion are more particularly set forth in the attached Memorandum, which is incorporated herein by reference.

WHEREFORE, for all of the reasons stated herein, MSRPS respectfully requests that the Court grant its Motion and dismiss all claims against MSRPS in the Complaint.

Respectfully submitted,

DOUGLAS F. GANSLER
Attorney General of Maryland

/s/
JOHN J. KUCHNO
Federal Bar No. 04211

Assistant Attorney General
Office of the Attorney General
200 St. Paul Place, 20th Floor
Baltimore, Maryland 21202
Telephone: (410) 576-6441
Facsimile: (410) 576-6955
Email: jkuchno@oag.state.md.us

Attorneys for Defendant, the Maryland State
Retirement and Pension System

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th day of December, 2011, a copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing (NEF) to all counsel of record who have appeared in this case.

John J. Kuchno
Assistant Attorney General